ROADMAP

TO TAX INCREMENT FINANACING

Tennessee Comptroller of the Treasury

Public Chapter 605 – The New Roadmap for Tax Increment Financing

Tax Increment Financing – or TIF – is a method utilized by local governments to pay for community improvements with future tax revenues. A TIF plan is approved by a local government to redevelop an area by paying for the cost of public or private improvements out of future growth in taxes attributed to the new development. The redevelopment typically consists of clearing blight, promoting housing, or other economic development. Public Chapter 605 addresses TIF plans utilizing future property tax revenue. Historically, TIF in Tennessee has been used for housing and redevelopment. TIF use for economic development is growing.

By enacting the Uniformity in Tax Increment Financing Act of 2012, the Tennessee General Assembly strengthened a powerful tool for job creation and economic development in our state. Prior to this legislation, the multiple laws governing TIF were inconsistent. Public Chapter 605 does not authorize new types of TIFs. It establishes overriding parameters for existing TIFs.

The basic provisions for developing and submitting a TIF plan for local approval remain unchanged. Public Chapter 605 includes new standards for state approval of TIF projects for certain uses and extended TIF terms. The new law also adds consistency by requiring central filing of TIF plans with the state, providing uniform calculation of the property tax base, and creating the opportunity to cover administrative costs. Additionally, the new law will revert unused TIF revenue to the city or county as appropriate.

Summary of Public Chapter 605

Legal Authority for Tax Increment Financing

TIFs are authorized in four Tennessee statutes:

(1) T.C.A. § 7-53-312: Industrial Development Board (IDB) 'Economic impact plans' (non-Metro government)

(2) T.C.A. § 7-53-314: Industrial Development Board (IDB) 'Economic impact plans' (Metro government)

(3) T.C.A. § 13-20-205: Housing & redevelopment

(4) The uncodified Community Redevelopment Act of 1998 (Pub. Ch. 987 of 1998), which authorizes housing/redevelopment TIFs in counties larger than 800,000 (currently only Shelby County).

All four of the existing statutes share a common approach: the industrial development board or housing authority – or TIF agency – submits a TIF plan for approval to the affected city and county. As mentioned above, the TIF plan is created by the TIF agency to clear blight or promote housing or economic development. The TIF plan uses future growth in taxes attributed to the new development to pay for the cost of public or private improvements to the area. A TIF plan includes several common features that are unchanged by the new law. The common features include: TIF area identification and revenue estimates, TIF budget information, certain specific findings as required under the applicable statute, and details of TIF allocation.

Features of a TIF Plan Unchanged by Public Chapter 605

TIF Area Identification and Revenue Estimates. A TIF plan should identify, within the designated area, real and taxable tangible personal property parcels using an existing tax roll. A total current assessed value of the designated area should also be a part of the plan. This total value should include structures and other improvements to the land, as well as taxable tangible personal property associated with business use of the real property. A TIF plan should estimate the projected assessed value of these parcels for each subsequent year that the TIF plan will remain in effect. The county assessor of property and the state Division of Property Assessments are essential to gathering this information.

TIF Budget. A TIF plan should estimate the cost and date of completion of public or private improvements to be funded. In addition, the plan should describe all funding sources for these improvements, including the amount and final maturity of bonded or other proposed incurred indebtedness.

Required Findings. Each statutory provision for TIF in Tennessee requires certain unique findings. IDB TIF plans should identify an industrial park (T.C.A. § 13-16-202) or IDB "project" (T.C.A. § 7-53-101) within the TIF area. A list of IDB 'projects' with codes assigned for purposes of the annual fiscal impact report required of IDB lessees can be found on the Comptroller's website. Findings for redevelopment TIF plans (T.C.A. § 13-5-205) should include items extracted from the general redevelopment plan (T.C.A. § 13-5-203). The comparable provisions for community redevelopment plans (Shelby County only) are Section 14 of Pub. Ch. 987 of 1998.

Details of Allocation. The TIF base and increment are the heart of a TIF plan. All TIF plans should detail the allocation of tax revenue payable concerning TIF area property and identify the allocation term in years. Each year's adopted city or county budget will continue to allocate the base tax. The balance of tax due from taxable real property or tangible personal property TIF area parcels, is the tax increment revenue payable to the TIF agency for purposes permitted under the law or in the TIF plan.

What's New in Public Chapter 605

State Approval in General - TIF increments, or expenditures, can be used for a variety of improvements. These include: acquiring, clearing, and preparing land; the cost of constructing public infrastructure (broadly defined), professional design costs, and financing costs. Certain uses of TIF increments must be preapproved by the state Commissioner of Economic and Community Development and the state Comptroller of the Treasury. The approval signifies the expenditure is in the "best interest of the state." If a TIF plan contains an expenditure that would require preapproval, the plan should be submitted in writing to both officials detailing the use of the increment and the relevant economic development goals. These TIF plans are deemed approved if not explicitly approved or denied within 30 days.

State Approval – Using TIF increment for privately owned land, improvements, or equipment. Use of incremental revenue for land, improvements, or equipment that is to be owned by a private person or entity requires state preapproval. A privately-owned parking lot, facility or garage available for public use would not require state approval.

State Approval – Using TIF increment for general economic development. Use of incremental revenue for the industrial development board that generally furthers or promotes economic development in the municipality requires state preapproval.

State Approval – Exceeding Standard Term. IDB TIF plans allocating revenue for economic development for a term exceeding 20 years requires state preapproval. Redevelopment TIF plans with a term exceeding 30 years require state preapproval. In both instances, the TIF plan should detail reasons why the longer term is necessary for completion of the plan.

Central Reporting. The new law imposes uniform reporting requirements for all TIFs. The TIF agency must file approval resolutions, TIF area descriptions, and estimates of base tax amounts with the state Comptroller of the Treasury, as well as the county assessor. Additionally, the TIF agency must annually file with the Comptroller a report of incremental revenues allocated to the TIF agency.

Uniform and Flexible Calculation of Base Taxes. Historically, base tax calculations for TIF plans were inconsistent. With a redevelopment TIF, base taxes are calculated on base year assessed value of TIF parcels and the current tax rate. With an IDB TIF, base taxes are calculated on base year taxes payable on TIF parcels. In neither case could the base tax exceed the actual tax levied on TIF parcels the year before the base year. Before Public Chapter 605, the possibility existed that the base tax could shrink solely because the permitted tax rate fell to the tax-neutral rate in a year of reappraisal under the terms of the certified tax rate law. The new law protects the base year tax amount from shrinking.

The new law also allows greater flexibility in allocating incremental revenues under a TIF plan. TIF plans could enlarge a base allocation higher than the defined base tax before Public Chapter 605. Now, a TIF plan may also aggregate parcels and delay allocation of the increment otherwise due for a particular parcel or group until the base tax has been remitted for all aggregated parcels. In addition, TIF plans may vary the timing of the allocation among parcels or parcel groups to match revenue with the purpose for which they are being allocated.

Administrative Costs Limit. Up to 5% of incremental revenue may be allocated to costs of administering the TIF plan. These costs include overhead costs, administrative costs of the TIF agency, and administrative costs of the assessor, trustee, or other collecting official. In addition, a city or county may choose to fund additional administrative costs in its annual budget for these agencies.

Reversion of Unused Increment. If the incremental revenue exceeds the amount budgeted or reserved for permitted expenditures in any year, the surplus must either pay down the approved debt or revert to the general fund of the city or county that levied the tax.

Moving Forward

Tax increment financing is poised to become a leading source of funding for housing and economic development in Tennessee. Public Chapter 605 improves consistency and provides clarity among the different TIF projects. The new law ensures that TIF projects are transparent and provide accountability. Contact the Comptroller of the Treasury for more information.

Tennessee Comptroller of the Treasury

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